

AMENDED IN SENATE AUGUST 18, 2014

AMENDED IN SENATE JULY 1, 2014

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2493

Introduced by Assembly Member Bloom

(Coauthors: Assembly Members Achadjian, Alejo, Brown, Lowenthal, Mullin, V. Manuel Pérez, Nestande, Skinner, and Waldron)

(Coauthor: Senator Lara)

February 21, 2014

An act to amend Sections 34176 and 34191.4 of the Health and Safety Code, relating to community redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2493, as amended, Bloom. Redevelopment dissolution: housing projects: bond proceeds.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law provides for the transfer of housing assets and functions previously performed

by the dissolved redevelopment agency to one of several specified public entities. Existing law authorizes the successor housing entity to designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to January 1, 2011, and was backed by the Low and Moderate Income Housing Fund.

This bill would instead authorize a successor housing entity to designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to June 28, 2011, and would require the proceeds from bonds issued between January 1, 2011, and June 28, 2011, be used for projects meeting certain criteria established in this bill for projects, to be funded by successor agencies generally, from proceeds of bonds issued during the same period.

Existing law authorizes the Department of Finance to issue a finding of completion to a successor agency that completes a due diligence review and meets other requirements. Upon receiving a finding of completion, a successor agency is authorized to expend excess bond proceeds derived from bonds issued on or before December 31, 2010, in a manner consistent with the original bond covenants.

The bill would expand this authorization to include the expenditure of excess bond proceeds derived from bonds issued on or before June 28, 2011, and would require proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, to be used by successor agencies only for projects meeting certain criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 34176 of the Health and Safety Code is
2 amended to read:
3 34176. (a) (1) The city, county, or city and county that
4 authorized the creation of a redevelopment agency may elect to
5 retain the housing assets and functions previously performed by
6 the redevelopment agency. If a city, county, or city and county
7 elects to retain the authority to perform housing functions
8 previously performed by a redevelopment agency, all rights,
9 powers, duties, obligations, and housing assets, as defined in
10 subdivision (e), excluding any amounts on deposit in the Low and
11 Moderate Income Housing Fund and enforceable obligations

1 retained by the successor agency, shall be transferred to the city,
2 county, or city and county.

3 (2) The housing successor shall submit to the Department of
4 Finance by August 1, 2012, a list of all housing assets that contains
5 an explanation of how the assets meet the criteria specified in
6 subdivision (e). The Department of Finance shall prescribe the
7 format for the submission of the list. The list shall include assets
8 transferred between February 1, 2012, and the date upon which
9 the list is created. The department shall have up to 30 days from
10 the date of receipt of the list to object to any of the assets or
11 transfers of assets identified on the list. If the Department of
12 Finance objects to assets on the list, the housing successor may
13 request a meet and confer process within five business days of
14 receiving the department objection. If the transferred asset is
15 deemed not to be a housing asset as defined in subdivision (e), it
16 shall be returned to the successor agency and the provision of
17 Section 34178.8 may apply. If a housing asset has been previously
18 pledged to pay for bonded indebtedness, the successor agency shall
19 maintain control of the asset in order to pay for the bond debt.

20 (3) For purposes of this section and Section 34176.1, “housing
21 successor” means the entity assuming the housing function of a
22 former redevelopment agency pursuant to this section.

23 (b) If a city, county, or city and county does not elect to retain
24 the responsibility for performing housing functions previously
25 performed by a redevelopment agency, all rights, powers, assets,
26 duties, and obligations associated with the housing activities of
27 the agency, excluding enforceable obligations retained by the
28 successor agency and any amounts in the Low and Moderate
29 Income Housing Fund, shall be transferred as follows:

30 (1) If there is no local housing authority in the territorial
31 jurisdiction of the former redevelopment agency, to the Department
32 of Housing and Community Development.

33 (2) If there is one local housing authority in the territorial
34 jurisdiction of the former redevelopment agency, to that local
35 housing authority.

36 (3) If there is more than one local housing authority in the
37 territorial jurisdiction of the former redevelopment agency, to the
38 local housing authority selected by the city, county, or city and
39 county that authorized the creation of the redevelopment agency.

1 (c) Commencing on the operative date of this part, the housing
2 successor may enforce affordability covenants and perform related
3 activities pursuant to applicable provisions of the Community
4 Redevelopment Law (Part 1 (commencing with Section 33000)),
5 including, but not limited to, Section 33418.

6 (d) Except as specifically provided in Section 34191.4, any
7 funds transferred to the housing successor, together with any funds
8 generated from housing assets, as defined in subdivision (e), shall
9 be maintained in a separate Low and Moderate Income Housing
10 Asset Fund which is hereby created in the accounts of the housing
11 successor.

12 (e) For purposes of this part, “housing asset” includes all of the
13 following:

14 (1) Any real property, interest in, or restriction on the use of
15 real property, whether improved or not, and any personal property
16 provided in residences, including furniture and appliances, all
17 housing-related files and loan documents, office supplies, software
18 licenses, and mapping programs, that were acquired for low- and
19 moderate-income housing purposes, either by purchase or through
20 a loan, in whole or in part, with any source of funds.

21 (2) Any funds that are encumbered by an enforceable obligation
22 to build or acquire low- and moderate-income housing, as defined
23 by the Community Redevelopment Law (Part 1 (commencing with
24 Section 33000)) unless required in the bond covenants to be used
25 for repayment purposes of the bond.

26 (3) Any loan or grant receivable, funded from the Low and
27 Moderate Income Housing Fund, from homebuyers, homeowners,
28 nonprofit or for-profit developers, and other parties that require
29 occupancy by persons of low or moderate income as defined by
30 the Community Redevelopment Law (Part 1 (commencing with
31 Section 33000)).

32 (4) Any funds derived from rents or operation of properties
33 acquired for low- and moderate-income housing purposes by other
34 parties that were financed with any source of funds, including
35 residual receipt payments from developers, conditional grant
36 repayments, cost savings and proceeds from refinancing, and
37 principal and interest payments from homebuyers subject to
38 enforceable income limits.

39 (5) A stream of rents or other payments from housing tenants
40 or operators of low- and moderate-income housing financed with

1 any source of funds that are used to maintain, operate, and enforce
2 the affordability of housing or for enforceable obligations
3 associated with low- and moderate-income housing.

4 (6) (A) Repayments of loans or deferrals owed to the Low and
5 Moderate Income Housing Fund pursuant to subparagraph (G) of
6 paragraph (1) of subdivision (d) of Section 34171, which shall be
7 used consistent with the affordable housing requirements in the
8 Community Redevelopment Law (Part 1 (commencing with
9 Section 33000)).

10 (B) Loan or deferral repayments shall not be made prior to the
11 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the
12 maximum repayment amount authorized each fiscal year for
13 repayments made pursuant to this paragraph and subdivision (b)
14 of Section 34191.4 combined shall be equal to one-half of the
15 increase between the amount distributed to taxing entities pursuant
16 to paragraph (4) of subdivision (a) of Section 34183 in that fiscal
17 year and the amount distributed to taxing entities pursuant to that
18 paragraph in the 2012–13 base year. Loan or deferral repayments
19 made pursuant to this paragraph shall take priority over amounts
20 to be repaid pursuant to subdivision (b) of Section 34191.4.

21 (f) If a development includes both low- and moderate-income
22 housing that meets the definition of a housing asset under
23 subdivision (e) and other types of property use, including, but not
24 limited to, commercial use, governmental use, open space, and
25 parks, the oversight board shall consider the overall value to the
26 community as well as the benefit to taxing entities of keeping the
27 entire development intact or dividing the title and control over the
28 property between the housing successor and the successor agency
29 or other public or private agencies. The disposition of those assets
30 may be accomplished by a revenue-sharing arrangement as
31 approved by the oversight board on behalf of the affected taxing
32 entities.

33 (g) (1) (A) The housing successor may designate the use of
34 and commit indebtedness obligation proceeds that remain after the
35 satisfaction of enforceable obligations that have been approved in
36 a Recognized Obligation Payment Schedule and that are consistent
37 with the indebtedness obligation covenants. The proceeds shall be
38 derived from indebtedness obligations that were issued for the
39 purposes of affordable housing prior to June 28, 2011. Bond
40 proceeds derived from bonds issued between January 1, 2011, and

June 28, 2011, shall only be used for projects that meet the criteria set forth in subparagraph (A) or (B) of paragraph (1) of subdivision (c) of Section 34191.4. Enforceable obligations may be satisfied by the creation of reserves for the projects that are the subject of the enforceable obligation that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects.

(B) The housing successor shall provide notice to the successor agency of any designations of use or commitments of funds specified in subparagraph (A) that it wishes to make at least 20 days before the deadline for submission of the Recognized Obligation Payment Schedule to the oversight board. Commitments and designations shall not be valid and binding on any party until they are included in an approved and valid Recognized Obligation Payment Schedule. The review of these designations and commitments by the successor agency, oversight board, and Department of Finance shall be limited to a determination that the designations and commitments are consistent with bond covenants and that there are sufficient funds available.

(2) Funds shall be used and committed in a manner consistent with the purposes of the Low and Moderate Income Housing Asset Fund. Notwithstanding any other law, the successor agency shall retain and expend the excess housing obligation proceeds at the discretion of the housing successor, provided that the successor agency ensures that the proceeds are expended in a manner consistent with the indebtedness obligation covenants and with any requirements relating to the tax status of those obligations. The amount expended shall not exceed the amount of indebtedness obligation proceeds available and such expenditure shall constitute the creation of excess housing proceeds expenditures to be paid from the excess proceeds. Excess housing proceeds expenditures shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

(h) This section shall not be construed to provide any stream of tax increment financing.

SEC. 2. Section 34191.4 of the Health and Safety Code is amended to read:

34191.4. The following provisions shall apply to any successor agency that has been issued a finding of completion by the Department of Finance:

1 (a) All real property and interests in real property identified in
2 subparagraph (C) of paragraph (5) of subdivision (c) of Section
3 34179.5 shall be transferred to the Community Redevelopment
4 Property Trust Fund of the successor agency upon approval by the
5 Department of Finance of the long-range property management
6 plan submitted by the successor agency pursuant to subdivision
7 (b) of Section 34191.5 unless that property is subject to the
8 requirements of any existing enforceable obligation.

9 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
10 application by the successor agency and approval by the oversight
11 board, loan agreements entered into between the redevelopment
12 agency and the city, county, or city and county that created ~~by~~ the
13 redevelopment agency shall be deemed to be enforceable
14 obligations provided that the oversight board makes a finding that
15 the loan was for legitimate redevelopment purposes.

16 (2) If the oversight board finds that the loan is an enforceable
17 obligation, the accumulated interest on the remaining principal
18 amount of the loan shall be recalculated from origination at the
19 interest rate earned by funds deposited into the Local Agency
20 Investment Fund. The loan shall be repaid to the city, county, or
21 city and county in accordance with a defined schedule over a
22 reasonable term of years at an interest rate not to exceed the interest
23 rate earned by funds deposited into the Local Agency Investment
24 Fund. The annual loan repayments provided for in the recognized
25 obligation payment schedules shall be subject to all of the following
26 limitations:

27 (A) Loan repayments shall not be made prior to the 2013–14
28 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
29 repayment amount authorized each fiscal year for repayments
30 made pursuant to this subdivision and paragraph (7) of subdivision
31 (e) of Section 34176 combined shall be equal to one-half of the
32 increase between the amount distributed to the taxing entities
33 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
34 that fiscal year and the amount distributed to taxing entities
35 pursuant to that paragraph in the 2012–13 base year, provided,
36 however, that calculation of the amount distributed to taxing
37 entities during the 2012–13 base year shall not include any amounts
38 distributed to taxing entities pursuant to the due diligence review
39 process established in Sections 34179.5 to 34179.8, inclusive.
40 Loan or deferral repayments made pursuant to this subdivision

1 shall be second in priority to amounts to be repaid pursuant to
2 paragraph (7) of subdivision (e) of Section 34176.

3 (B) Repayments received by the city, county, or city and county
4 that formed the redevelopment agency shall first be used to retire
5 any outstanding amounts borrowed and owed to the Low and
6 Moderate Income Housing Fund of the former redevelopment
7 agency for purposes of the Supplemental Educational Revenue
8 Augmentation Fund and shall be distributed to the Low and
9 Moderate Income Housing Asset Fund established by subdivision
10 (d) of Section 34176.

11 (C) Twenty percent of any loan repayment shall be deducted
12 from the loan repayment amount and shall be transferred to the
13 Low and Moderate Income Housing Asset Fund, after all
14 outstanding loans from the Low and Moderate Income Housing
15 Fund for purposes of the Supplemental Educational Revenue
16 Augmentation Fund have been paid.

17 (c) (1) Bond proceeds derived from bonds issued on or before
18 June 28, 2011, shall be used for the purposes for which the bonds
19 were sold.

20 (A) Bond proceeds derived from bonds issued between January
21 1, 2011, and June 28, 2011, shall only be used for projects which
22 meet the following criteria, as determined by a resolution issued
23 by the oversight board:

24 (i) The project shall be consistent with the applicable regional
25 sustainable communities strategy or alternative planning strategy
26 adopted pursuant to Section 65080 of the Government Code that
27 the State Air Resources Board has determined would, if
28 implemented, achieve the greenhouse gas emission reduction
29 targets established by the board or, if a sustainable communities
30 strategy is not required for a region by law, a regional
31 transportation plan that includes programs and policies to reduce
32 greenhouse gas emissions.

33 (ii) Two or more significant planning or implementation actions
34 shall have occurred on or before December 31, 2010. The term
35 “significant planning and implementation actions” means any of
36 the following:

37 (I) An action approved by the governing body of the city,
38 county, city and county, the board of the former redevelopment
39 agency, or the planning commission directly related to the planning
40 or implementation of the project.

1 (II) The project is included within an approved city, county,
2 city and county, or redevelopment agency planning document,
3 including, but not limited to, a redevelopment agency five-year
4 implementation plan, capital improvement plan, master plan, or
5 other planning document.

6 (III) The expenditure by the city, county, city and county, or
7 project sponsor, of more than twenty-five thousand dollars
8 (\$25,000) on planning-related activities for the project within one
9 fiscal year, or fifty thousand dollars (\$50,000) in total, over
10 multiple fiscal years.

11 (iii) Documentation dated on or before December 31, 2010,
12 shall be provided indicating the intention to finance all or a portion
13 of the project with the future issuance of long-term debt, or
14 documentation showing that the issuance of long-term
15 redevelopment agency debt was being planned on or before
16 December 31, 2010.

17 (iv) Each construction contract over one hundred thousand
18 dollars (\$100,000) shall include a provision that prevailing wage
19 will be paid by the contractor and all of that contractor's
20 subcontractors.

21 (v) For each construction contract over two hundred fifty
22 thousand dollars (\$250,000), the successor agency shall require
23 prospective contractors to submit a standardized questionnaire and
24 financial statements as part of their bid package, to establish the
25 contractor's financial ability and experience in performing large
26 construction projects.

27 (B) Any city, county, or city and county that funded an eligible
28 project, meeting the criteria listed in clauses (i) to (iii), inclusive,
29 of subparagraph (A) with funds other than redevelopment funds,
30 between June 28, 2011, and the effective date of the act adding
31 this paragraph, shall be eligible to be reimbursed utilizing 2011
32 bond proceeds, if the project meets the purpose for which the bonds
33 were issued.

34 (C) *Any successor agency requesting the use of bond proceeds*
35 *derived from bonds issued between January 1, 2011, and June 28,*
36 *2011, in accordance with subparagraphs (A) and (B), shall place*
37 *that request on its Recognized Obligation Payment Schedule. The*
38 *successor agency shall place each project on a separate*
39 *Recognized Obligation Payment Schedule line item. The successor*
40 *agency shall detail in the resolution adopting the Recognized*

1 *Obligation Payment Schedule* how each project will meet the
2 *requirement in subparagraphs (A) and (B), and all documentation*
3 *showing how the project meets those criteria shall be attached to*
4 *the resolution. The resolution adopting the Recognized Obligation*
5 *Payment Schedule, including the supporting documentation, shall*
6 *be forwarded to the department for review and approval or denial.*
7 *Pursuant to subdivision (h) of Section 34179, the department may*
8 *review and deny any action by the oversight board.*

9 (2) (A) Notwithstanding Section 34177.3 or any other
10 conflicting provision of law, bond proceeds in excess of the
11 amounts needed to satisfy approved enforceable obligations shall
12 thereafter be expended in a manner consistent with the original
13 bond covenants. Enforceable obligations may be satisfied by the
14 creation of reserves for projects that are the subject of the
15 enforceable obligation and that are consistent with the contractual
16 obligations for those projects, or by expending funds to complete
17 the projects. An expenditure made pursuant to this paragraph shall
18 constitute the creation of excess bond proceeds obligations to be
19 paid from the excess proceeds. Excess bond proceeds obligations
20 shall be listed separately on the Recognized Obligation Payment
21 Schedule submitted by the successor agency.

22 (B) If remaining bond proceeds cannot be spent in a manner
23 consistent with the bond covenants pursuant to subparagraph (A),
24 the proceeds shall be used to defease the bonds or to purchase
25 those same outstanding bonds on the open market for cancellation.